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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 9.10.2006.

Jagbir Singh .... Appellant.

vs

SDO, UHBVN Ltd. Kundli and others .. Respondents.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Shilak Ram Hooda,Advocate,for the appellant.

Kiran Anand Lall, J.

This appeal is directed against the concurrent verdict of the trial court and the first appellate court dismissing the suit of appellant-plaintiff wherein he had challenged the validity of demand notice dated 27.11.1997, vide which the respondents had called upon him to pay penalty to the tune of Rs.15410/-, for having committed theft of electricity.

The premises of the appellant were checked by the vigilance staff of Haryana State, on 25.11.1997, and he was found committing theft of electricity, by putting electricity-wire, directly, on the electric pole. The Junior Engineer of the UHBVN Ltd., Davinder Singh, who was a member of the raiding party, appeared in court as a witness and deposed that he was accompanying the SDO, S.C.Kapoor, when the premises of the appellant were checked. He further stated that they found the appellant committing theft of electricity, by taking supply directly from the pole, with the help of a cable. He also proved and exhibited the inspection report, Ex.D1, which was prepared at the spot.

Both the courts below found it as a fact that the raiding party caught the appellant red handed while he was stealing electricity. The stand

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of appellant that he was not present at the spot, was found false. The inspection report, Ex.D1, had been duly got signed from him, at the spot. Besides, the demand notice dated 27.11.1997 was also served upon him, against his signatures. Inspite of all this, he neither filed any appeal before the competent officer of the electricity board against his alleged false involvement, nor even he thought of bringing the matter to the notice of electricity authorities, in any other manner.

In view of the fact that the inspection report, Ex.D1, and the impugned notice, Ex.D3, had been duly signed by the appellant, the courts below have rightly disbelieved his version that he was not present at the spot and that he was not found committing theft of electricity.

A criminal case of theft had also been got registered against the appellant. The criminal court, no-doubt, acquitted him in that case. But, this fact, by itself, was not sufficient to decide the civil suit also, in his favour. And, the trial as well as the first appellate court rightly did not do so. It may be mentioned that, as the judgment, Annexure P7, shows, the criminal court had acquitted the appellant, only “by giving benefit of doubt”. This fact cannot, therefore, outweigh the concurrent finding of the trial court and the first appellate court, recorded against him, on the basis of not only oral evidence but also documentary evidence.

A regular second appeal can be entertained only if some substantial question of law is involved therein, and not otherwise. In the appeal in hand, no such question of law is involved. It, therefore, deserves to be dismissed in limine, and it is so ordered.

9.10.2006. (Kiran Anand Lall)
vs. Judge.